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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/801,307

03/16/2004

Todd Robida

03-183

1975

27774 7590 08/28/2008

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EXAMINER

BOECKMANN, JASON J

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

08/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/801,307	<b>Applicant(s)</b> ROBIDA, TODD	
	<b>Examiner</b> Jason J. Boeckmann	<b>Art Unit</b> 3752	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 25 July 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Tran Len/  
Supervisory Patent Examiner, Art Unit 3752

/J. J. B./  
Examiner, Art Unit 3752

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the applicants remarks on the 112 first rejections, the examiner is still unsure as to how the valve returns to its neutral state without the use of a spring return mechanism. If the valve is in the closed position, and the pneumatic forces are removed from both pneumatic ports simultaneously, how does the valve member move from the closed position to the open position without the use of a spring return mechanism? This is the same argument made by applicant in the remarks filed on 10/10/2006 towards the Kitner reference. If the valve present invention can return move from a closed position to an open position without the use of a spring, or any pneumatic forces, then the valve of Kitner can so as well. Additionally, applicant mentions that when the pneumatic force is removed, the valve seats are not forced to the right or to the left. However, it is not clear how the valve seats are even capable of being forced in any direction. The valve seats appear to be wedged between elements 72 and 83 or 30 and do not appear to be capable of moving at all (see figure 11). It is also not understood how one valve seat can be open and the other closed if they are both interlocked with the ceramic member shown between them. Regarding the applicants remarks towards the Kitner reference, Kitner discloses multiple embodiments including dual pneumatically actuated valves, three way valves and spring return valves. Kitner discloses a multiple valves with multiple means for operation, the rejection merely combines the three way valve of figure 3 with the means for operation shown in figures 1 and 2. The dual actuated valves comprising valve seats (any two of the three 13, 14 and 15) and air pressure diaphragms (the elements on the outside of members 10 and 12). The air pressure diaphragms and valve seats of Kitner are air pressure diaphragms and valve seats to the same extent that the present invention has air pressure diaphragms and valve seats. Specifically, it appears from the figures that the air pressure diaphragm 78 is mounted on the piston 77 (or plunger) just as the air pressure diaphragm of Kitner is mounted on the piston 30 (or plunger). Additionally, figure 4 and 5 of Kitner are not being used to teach a three way valve as shown in figure 3, but are used to disclose that a dual actuated pneumatic valve is interchangeable with a single pneumatic/spring return valve, see the rejection above..